



## 1995 SENATE BILL 577

February 28, 1996 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 942.01 (3) of the statutes; **relating to:** the affirmative privilege  
2 defenses in criminal defamation cases.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person is subject to a criminal penalty if the person, with intent to defame, communicates defamatory matter to a 3rd person without the consent of the person defamed. Current law exempts any communication that is otherwise privileged. In *State v. Gilles*, 173 Wis.2d 101, 496 N.W. 2d 133 (Ct. App. 1992), the court of appeals noted that the statute does not say whether the civil law privileges relating to defamation apply to criminal cases. The court determined that those privileges do apply. This bill codifies that court decision.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c) 1., stats. After careful consideration of the court of appeals decision in *state v. Gilles*, 173 Wis. 2d 101, 496 N.W. 2d 133 (Ct. App. 1992), the law revision committee has determined that codifying this decision is desirable as a matter of public policy.

3 **SECTION 1.** 942.01 (3) of the statutes is amended to read:  
4 942.01 (3) This section does not apply if the defamatory matter was true and  
5 was communicated with good motives and for justifiable ends or if the  
6 communication was otherwise privileged. All privileges under ch. 905 and under

1 common law that are affirmative defenses in a civil action are affirmative defenses  
2 under this section.

3 (END)